

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
(317) 232-9855

**FISCAL IMPACT STATEMENT**

**LS 6697**

**BILL NUMBER: HB 1195**

**DATE PREPARED:** Feb 9, 1999

**BILL AMENDED:** Feb 8, 1999

**SUBJECT:** Health Maintenance Organization Liability.

**FISCAL ANALYST:** Alan Gossard

**PHONE NUMBER:** 233-3546

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill provides for a duty of ordinary care for health insurance carriers, health maintenance organizations (HMOs), and other managed care entities when making health care treatment decisions. The bill makes health insurance carriers, HMOs, and other managed care entities liable for harm resulting from health care treatment decisions that are made without exercising ordinary care. The bill also prohibits a health insurance carrier, HMO, or other managed care entity from removing a health care provider from, or renewing the status of the health care provider with, the health care plan for advocating on behalf of an insured or enrollee for appropriate and medically necessary care. The bill also prohibits contract indemnification or hold harmless clauses from applying to the acts or conduct of health insurance carriers, HMOs, and other managed care entities.

This bill provides that the amount of the medical malpractice surcharge for a qualified provider other than a licensed physician or hospital may not exceed the actuarial risk posed to the Patient's Compensation Fund by a qualified provider other than a licensed physician or hospital.

**Effective Date:** July 1, 1999.

**Explanation of State Expenditures:** This bill provides that insurance carriers and managed care organizations have the duty to exercise ordinary care when making health care treatment decisions and makes them liable for harm to an insured or enrollee that is proximately caused by the failure of the insurance carrier or managed care organization to exercise ordinary care. These provisions may result in additional litigation and claims expenses and additional costs for malpractice insurance to the health plans offered to state employees. The increased costs may be reflected in increased premiums and enrollment fees. Increased premiums and fees, however, may or may not result in additional costs to the state, depending upon administrative action as to the determination of the employer/employee cost share for health plan benefits.

**Explanation of State Revenues:** (Revised) The provision regarding the amount of the medical malpractice

surcharge for a qualified provider other than a licensed physician or hospital paid to the Patient's Compensation Fund by qualified providers other than licensed physicians or hospitals may have an impact on revenues to the Patient's Compensation Fund. This potential impact is currently being determined.

**Explanation of Local Expenditures:** Similar to the state, increased premiums and enrollment fees may or may not result in additional costs to local governments and school corporations, depending upon administrative action as to the determination of the employer/employee cost share for health plan benefits offered to employees.

**Explanation of Local Revenues:**

**State Agencies Affected:** All.

**Local Agencies Affected:** Local Governments and School Corporations.

**Information Sources:**